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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,163	02/27/2004	Haruo Kawashima	12010-0056	4596

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CLARK & BRODY  
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WASHINGTON, DC 20005

EXAMINER
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TOMPKINS, ALISSA JILL

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/787,163

Applicant(s)

KAWASHIMA ET AL.

Examiner

Alissa J. Tompkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Election***

Applicant's response to the Restriction Requirement of December 6, 2005 was received and reviewed. Applicant elected Species I along with claims 1-3 and 5-9; however, Species I and Species II disclose two different embodiments of the invention. Species I shows the swimming goggles with a belt-like portion. Species II shows the swimming goggles with angled lenses and light blocking tape. Claims 1-3, 5, and 9 correspond with Species I and therefore have been the only claims examined.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krupicka (U.S. 4,251,076) in view of Sugarman (U.S. 4,965,913). Krupicka discloses a pair of golfing aid glasses comprising a pair of lenses 16 and 18 that are connected together by a nose engaging bridge 12. The lens assemblies have a transverse direction horizontally extending across said head and longitudinal direction

vertically extending orthogonally to the transverse direction. Each lens has an intermediate section 22 that extends across the lens at a substantially middle level. The intermediate section is in the form of a bar 22, which forms a belt across the lenses. Krupicka does not explicitly state how the see-through clarity is specified, but the drawings indicate that the bar is a solid piece of material and therefore it would be inherent that the bar is at least opaque because it is used and seen as a single cross (Figures 1 and 3), consequently giving the intermediate section a total luminous transmittance of substantially 0%. An upper and lower section of the lenses are located above and below the intermediate section respectively. The upper and lower sections have a much higher see through clarity than the intermediate section. The intermediate section has a width of .25 inches (Column 2, 54-57), which is equivalent to 6.35mm. However, Krupicka is missing a strap that attaches to the glasses and keeps them around the head of the wearer. Sugarman shows a strap for glasses comprising a strap member 16 having loops 24 that are placed around the temple bars 12 and 14. The loops allow adjustment of the strap (Column 2, 48-53). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Sugarman to modify Krupicka in order to provide a simple way to retain eyewear on the head of the wearer.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krupicka in view of Sugarman and further in view of Tully (U.S. 1,660,587). Krupicka and Sugarman disclose the invention substantially as applied in claims 1-3, and 5 above. However, they are missing eye cups, which are formed around the lenses. Tully shows

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an eye protector/eye cups which are attached to a pair of glasses/goggles to protect the eye from any dust, dirt, etc. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Tully to modify Krupicka and Sugarman in order to provide a type of goggle that protects the eyes of the wearer.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Palumbo (U.S. 3,264,002) shows eye glasses having an opaque line located on the intermediate section of the lens. Wheeler (U.S. 5,781,271) shows portable safety side shields for eye glasses. Lindstrom (U.S. 2,900,639) shows spectacle attachments that form cups around the lenses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa J. Tompkins whose telephone number is 571-272- 3425. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alissa Tompkins  
Patent Examiner  
Art Unit 3765  
March 8, 2006

AJT



JOHN S. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700